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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,588	01/12/2004	Chris J. Diederich	USCF00-066-2	3148
8156	7590	01/22/2007	EXAMINER	
JOHN P. O'BANION O'BANION & RITCHIEY LLP 400 CAPITOL MALL SUITE 1550 SACRAMENTO, CA 95814			TRUONG, KEVIN THAO	
		ART UNIT		PAPER NUMBER
				3734
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	01/22/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/756,588	DIEDERICH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kevin T. Truong	3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on Election 12/27/2006.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 64-92 is/are pending in the application.  
4a) Of the above claim(s) 68,82 and 83 is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 64-67, 69-81, and 84-92 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1106; 01/05; 01/04

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date.       .  
5)  Notice of Informal Patent Application  
6)  Other:       .

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group II which corresponding to figures 1 and 2 drawn to claims 64-67, 69-81, and 84-92 in the reply filed on 12/27/2006 is acknowledged.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 64-67, 69-81, and 84-92 are rejected under 35 U.S.C. 102(b) as being anticipated by Swaminathan (U.S. 6,517,533).

Swaminathan discloses in figure 10, a method for treatment of the prostate gland as recited in the claims as follows: placing the distal end of a catheter (90) between the rectum and the prostate gland; inflating a balloon (98) mounted on the distal end of the catheter (90) between the prostate gland and the rectal wall, wherein the balloon includes a sensor (106) for sensing and monitoring the temperature of the rectal wall and the surface of the prostate gland during the treatment of the prostate gland as well as fluid within the balloon (98) (see col. 6, line 32 thru col. 8, line 20); and furthermore, circulating and replacing fluid through lumens (96,100,108) below or higher normal body temperature during the treatment of the prostate gland by thermotherapy.

4. Claims 64-67, 69-81, and 84-92 are rejected under 35 U.S.C. 102(b) as being anticipated by Dann et al. (U.S. 5,899,932).

Dann et al discloses in figures 2-11, a method for treatment of the prostate gland as recited in the claims as follows: placing the distal end of a catheter (32) between the rectum and the prostate gland; inflating a balloon (34) mounted on the distal end of the catheter (32) between the prostate gland and the rectal wall, wherein the balloon includes a sensor (71) for sensing and monitoring the temperature of the rectal wall and the surface of the prostate gland during the treatment of the prostate gland as well as fluid within the balloon (34); and furthermore, circulating and replacing fluid through lumens (64A,64B,66A,66B) below or higher normal body temperature during the treatment of the prostate gland by thermotherapy.

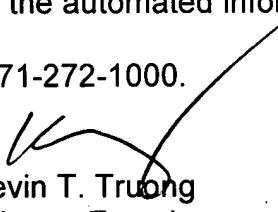
***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kauphusman et al. (U.S. 5,792,070) discloses a rectal thermosensing unit for sensing temperature of the patient's rectal tissue.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin T. Truong whose telephone number is 571-272-4705. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kevin T. Truong  
Primary Examiner  
Art Unit 3734

ktt